

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

Sable Networks, Inc. and
Sable IP, LLC,

Plaintiffs,

v.

Cloudflare, Inc.,

Defendant.

Civil Action No.
6:21-cv-00261-ADA

JURY TRIAL DEMANDED

PLAINTIFFS SABLE NETWORKS, INC. AND SABLE IP, LLC’S
OPPOSED NOTICE OF SUPPLEMENTAL AUTHORITY

Pursuant to Local Rule CV-7(E)(1), Plaintiffs Sable Networks, Inc. and Sable IP, LLC (collectively, “Sable”) respectfully request leave of the Court to submit the attached supplemental authority, which is relevant to the construction of the claim terms “undesirable behavior” and “badness factor,” of U.S. Patent 8,243,593 (the “’593 patent”).

On April 1, 2022, in *Sable Networks, Inc., et al. v. Splunk Inc., et al.*, No. 5:21-cv-00040-RWS (E.D. Tex.) (the “*Splunk* action”), Judge Schroder entered an Order construing the terms “undesirable behavior” and “badness factor” from the ‘593 patent. That Order is entered as Dkt. 105 in that case, and is attached hereto as Exhibit A.

In that Order, Judge Schroeder construed the term “undesirable behavior” as “not indefinite” and as meaning “behavioral statistics that exceed a pre-determined threshold value.” Ex. A at 26. Judge Schroeder further construed the term “badness factor” as “not indefinite” and that the term should be “given its plain and ordinary meaning.” *Id.*

Judge Schroeder’s Order is relevant to the claim construction briefing in this case because

the Order construes terms at issue in this case (*see* Dkt. 65 [Amended Joint Claim Construction Statement] at 5).

Plaintiffs have conferred with counsel for Defendant Cloudflare Inc., and the instant Notice of Supplemental Authority is opposed.

Dated: April 5, 2022

Respectfully submitted,

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*Attorneys for Sable Networks, Inc.
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CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served this April 5, 2022 with a copy of this document via the Court's CM/ECF System.

/s/ Daniel P. Hipskind
Daniel P. Hipskind